

## SECTION 76-2418 - FAILURE TO FULFILL DUTIES AND OBLIGATIONS OF BUYER'S AGENT OR TENANT'S AGENT

VIOLATION	COMPLAINT	DATE OF ORDER	PENALTY
Section 81-885.24(26) by violating a rule or regulation adopted and promulgated by the Commission in the interests of the public and consistent with the Nebraska Real Estate License Act to include: Ch. 5-003.01 by preparing a land contract without having it approved by an attorney; and Ch. 5-003.07 and Ch. 5-003.08 by failing to comply with 76-2418(c)(iv) by failing to advise the buyers to obtain expert advice regarding drafting of a land contract and closings, the expertise which is beyond the expertise of the Respondent; 81-885.24(29) by demonstrating negligence, incompetency, or unworthiness to act as a Salesperson.	97-007 - Commission vs. Russell Dean Lefever	June 18, 1997	License Revoked.
Section 76-2418(c)(iv) by failing to advise the Buyers to obtain expert advice as to material matters about which the licensee knows but the specifics of which are beyond the expertise of the licensee.	98-016 - Kenneth & Louise Nielsen vs. Debra Lee Rau & Sue Ellen Kuhl	November 30, 1998	<u>Rau</u> : Stipulation and Consent. License censured. <u>Kuhl</u> : Dismissed.
Section 81-885.24(26) by violating a rule or regulation adopted and promulgated by the Commission in the interest of the public inconsistent with the Nebraska Real Estate License Act, in each of the following particulars, Title 299, N.A.C. Ch. 5-003.07 in each of the following particulars, by failing to comply with the following: 76-2419(2) and 76-2418(c)(iii) by failing to disclose in writing to the client adverse material facts; 76-2419(2) by failing to disclose to the buyer information relevant to the transaction or client; Ch. 5-003.04 by failing to make known, in writing, to any purchaser, prior to the buyer becoming obligated to purchase the property, his interest in the property for sale; 81-885.24(29) by demonstrating negligence to act as a broker.	98-013, 98-022, 98-024 - Commission vs. Kenneth John Jansen	March 23, 1999	Stipulation and Consent Order. License suspended from May 1, 1999 through December 31, 2000, with the first 45 days of said suspension served and the remaining time stayed and served on probation; plus twelve (12) hours of continuing education to include three (3) hours in agency, three (3) hours in disclosures, three (3) hours in license law, and three (3) hours to be determined by Director.
Section 81-885.24(29) by demonstrating negligence, incompetency or unworthiness to act as a salesperson for failing to deliver the offer timely; 76-2418(1)(b) and (c)(ii) by failing to exercise reasonable skill and care for the client and by failing to promote the interest of the client with the utmost good faith, loyalty and fidelity, including presenting all written offers from the client in a timely manner.	2001-025 - Jerry J. & Mark K. Owens vs. Dale Martin Engel	September 26, 2001	Stipulation and Consent Order. License censured; plus an additional three (3) hours of continuing education in the area of contracts to be completed by March 25, 2002.

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<p>Section 81-885.24(22) by making a substantial misrepresentation; 81-885.24(26) by violating any rule or regulation adopted and promulgated by the Commission in the interest of the public and consistent with the Nebraska Real Estate License Act, specifically, Title 299, N.A.C., Ch. 5-003.07 by failing to comply with the requirements set forth in 76-2401 through 76-2430, particularly, 76-2418(1)(b) by representing a buyer but failing to exercise reasonable skill and care for the client; 76-2419 by failing to perform the terms of the written agreement and exercise reasonable skill and care for the client and promote the interest of the client with the utmost good faith, loyalty and fidelity; 76-2421(1) by failing, at the earliest practicable opportunity during or following the first substantial contact with the seller or buyer who has not entered into a written agreement for brokerage services to provide that person with a written copy of the current brokerage disclosure pamphlet which has been prepared and approved by the Commission and disclose in writing which party the licensee is representing; 81-885.24(29) by demonstrating negligence to act as a salesperson.</p>	<p>2001-038 - William J. &amp; Cindy C. Sarraillon vs. Vincent Muniz, Jr.</p>	<p>April 3, 2002</p>	<p>Stipulation &amp; Consent Order. License suspended for thirty (30) days with entire period served on probation from April 3, 2002, through May 2, 2002; plus an additional six (6) hours of continuing education, including three (3) hours in the area of agency and three (3) hours in the area of license law to be completed by October 2, 2002.</p>
<p>Section 76-2418(1)(b) by failing to exercise reasonable skill and care for the client; 76-2421 by failing, at the earliest practicable opportunity during or following the first substantial contact with a buyer, who has not entered into a written agreement for brokerage services with a designated broker, to provide the buyer with a written copy of the current brokerage disclosure pamphlet and disclose in writing the type of brokerage relationships the designated broker and affiliated licensees are offering or disclose in writing to the buyer which party the Respondent is representing.</p>	<p>2002-015 - Janelle A. Zeleny vs. Steven Lee Scherich</p>	<p>January 29, 2003</p>	<p>Stipulation &amp; Consent Order. License censured; plus an additional 6 hours of continuing education, including 3 hours in the area of agency and 3 hours in the area of ethics, to be completed by July 31, 2003.</p>
<p>Section 76-2418(1)(b) and (c) by failing to exercise reasonable skill and care for her client and by failing to promote the interests of the client with the utmost good faith, loyalty and fidelity, including: seeking a price in terms which are acceptable to the client and in that Respondent signed buyer's name to numerous documents relating to this transaction; 76-2421(1) in that Respondent failed at the</p>	<p>2003-035 - Commission vs. Mary Catherine Larsen</p>	<p>July 16, 2003</p>	<p>Stipulation &amp; Consent Order. License revoked.</p>

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<p>earliest practicable opportunity during or following the first substantial contact with a buyer to provide that person with a written copy of the current brokerage disclosure pamphlet which has been prepared and approved by the Commission and to disclose in writing to that person types of brokerage relationships the designated broker and affiliated licensees are offering to that person or disclose in writing to that person which party the licensee is representing; 81-885.24(29) by demonstrating negligence, incompetency or unworthiness to act as a salesperson in that she failed at the earliest practicable opportunity during or following the first substantial contact with the buyer to provide buyer with a written copy of the current brokerage disclosure pamphlet, to disclose in writing to buyer the types of brokerage relationships Respondent was offering to the buyer and to disclose in writing to the buyer which party Respondent was representing and by signing buyer's name to the transaction documents.</p>	<p>2003-035 - Commission vs. Mary Catherine Larsen</p>		
<p>Section 76-2418(1) by failing to exercise reasonable skill and care for the buyers and by failing to promote the interests of the client with the utmost good faith, loyalty and fidelity in that Respondent did not allow the buyers to have a furnace and air-conditioning inspection, selected the closing date for Respondent's convenience, failed to discuss home inspections and home warranty plans and failed to allow the buyers to have a final walk-through inspection; 76-2419(2) in that Respondent failed to exercise reasonable skill and care for the buyers and to promote the interests of the buyers with the utmost good faith, loyalty, and fidelity, as follows: Respondent discouraged the buyers from having a furnace and air-conditioning inspection rather than encourage same, Respondent selected the closing date for Respondent's convenience rather than the convenience of the buyers, Respondent failed to discuss and recommend to the buyers home inspections and home warranty plans, and Respondent failed to recommend the buyers have a final walk-through prior to closing; 76-2421(1) by failing at the earliest practical opportunity during or following the first substantial contact with a buyer who has not entered into a</p>	<p>2003-021 - Commission vs. Gary William Smith</p>	<p>August 20, 2003</p>	<p>Stipulation &amp; Consent Order. License suspended for 6 months, from September 1, 2003, through February 29, 2004, with the first 15 days served on suspension and the remainder of the period stayed and served on probation; plus an additional 6 hours of continuing education, including 3 hours in the area of agency and 3 hours in the area of license law, to be completed by February 29, 2004.</p>

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<p>written agreement for brokerage services with a designated broker to provide that person with a written copy of the current Brokerage Disclosure pamphlet, and by failing to disclose in writing to that person the types of brokerage relationships the designated broker and affiliated licensees are offering to that person, or disclose in writing to that person which party the licensee is representing; 81-885.24(22) by making a substantial misrepresentation in that Respondent represented to the buyers the furnace and air-conditioning system worked fine and an inspection would be a waste of money; § 81-885.24(29) by demonstrating negligence, incompetency or unworthiness to act as a salesperson in that he failed at the earliest practicable opportunity during or following the first substantial contact with the buyers: to provide them with a written copy of the current Brokerage Disclosure Pamphlet, to disclose in writing to the buyers the types of brokerage relationships Respondent was offering to the buyers, and to disclose in writing to the buyers which party Respondent was representing and further, Respondent advised the buyers: the furnace and air-conditioning system worked fine and an inspection of same would be a waste of money.</p>	<p>2003-021 - Commission vs. Gary William Smith</p>		
<p>Section 81-885.24 (3) Failing to account for and remit any money coming into his possession belonging to others; Neb. Rev. Stat. § 81-885.24 (4) Co-mingling client money or other property with his own; Neb. Rev. Stat. § 81-885.24 (5) Failing to maintain and deposit into a separate non-interest bearing checking account all money received by him unless all parties having an interest in the funds have agreed otherwise in writing; Neb. Rev. Stat. § 81-885.24 (22) Making a substantial misrepresentation; Neb. Rev. Stat. § 81-885.24 (29) Demonstrating negligence, incompetency, or unworthiness to act as a broker; Neb. Rev. Stat. § 76-2421 (1) for failing, at the earliest practicable opportunity during or following the first substantial contact with a seller, landlord, buyer, or tenant who has not entered into a written agreement for brokerage services with a designated broker, the licensee who is offering brokerage services to that person or who is providing brokerage services for that property shall:</p>	<p>2003- 038 - Commission vs. Mark Lester Stecker</p>	<p>January 12, 2005</p>	<p>Stipulation &amp; Consent Order dated January 12, 2005. License suspended for two (2) years from date license of license renewal for 2005 plus an additional six (6) hours of continuing education, including three (3) in farm brokerage and three (3) in farm management to be completed within the two year suspension period. If not completed the suspension remains in effect until successful completion of the courses.</p>

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(a) Provide that person with a written copy of the current brokerage disclosure pamphlet which has been prepared and approved by the commission; and (b) Disclose in writing to that person the types of brokerage relationships the designated broker and affiliated licensees are offering to that person or disclose in writing to that person which party the licensee is representing; and, Neb. Rev. Stat. 76-2422 (6) by failing, before engaging in any of the activities enumerated in subdivision (2) of section 81-885.01, to establish an agency relationship with any party or parties to a transaction in which the designated broker's duties and responsibilities exceed those contained in sections 76-2417 and 76-2418, to enter into a written agency agreement with a party or parties to the transaction to perform services on their behalf. The agreement shall specify the agent's duties and responsibilities, including any duty of confidentiality, and the terms of compensation.	2003- 038 - Commission vs. Mark Lester Stecker		
Section 76-2418(1) by failing under subparagraph (b) to exercise reasonable skill and care for clients and under subparagraph (c) to promote the interest of the clients with the utmost good faith, loyalty and fidelity and violated Neb. Rev. Stat. 81-885.24(29) by demonstrating negligence to act as a salesperson as Respondent failed to exercise appropriate care in disclosing the effect of the written contract.	2005-009 - Commission vs. Constance J. Nordhues	June 13, 2005	Stipulation & Consent Order. License censured; plus an additional three (3) hours of continuing education in the area of Agency, to be completed by September 7, 2005.
Section 76-2418 (1) A licensee representing a buyer as a buyer's agent shall be a limited agent with the following duties and obligations: (b) To exercise reasonable skill and care for the client; (c) To promote the interests of the client with the utmost good faith, loyalty, and fidelity, including; (iv) Advising the client to obtain expert advice as to material matters about which the licensee knows but the specifics of which are beyond the expertise of the licensee; and Neb. Rev. Stat. § 81-885.24 (29) by demonstrating negligence to act as a salesperson.	2005-030 - Michael Inzauro vs Russell Allen Craig	November 16, 2005	Stipulation and Consent Order. License censured; plus an additional six (6) hours of continuing education with three (3) hours in the area of license law, and three (3) hours in the area of agency to be completed by February 14, 2006.
Section 76-2418 (1) A licensee representing a buyer or tenant as a buyer's or tenant's agent shall be a limited agent with the following duties and obligations: (b) To exercise reasonable skill and care for the client; (c) To promote the interests of the client with the utmost good faith, loyalty, and	2006-030 - Commission vs. Daniel Jay Dunne	June 14, 2006	Stipulation and Consent Order. License censured; plus an additional six (6) hours of continuing education with three (3) hours in the area of license law and three

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<p>fideliity, including: (ii) Presenting all written offers to and from the client in a timely manner regardless of whether the client is already a party to a contract to purchase property or is already a party to a contract or a letter of intent to lease, by failing to present the Offer in Transaction #1 in a timely manner; Neb. Rev. Stat. §76-2422 (4) Before engaging in any of the activities enumerated in subdivision (2) of section 81-885.01, a designated broker intending to act as a dual agent shall obtain the written consent of the seller and buyer or landlord and tenant permitting the designated broker to serve as a dual agent. The consent shall include a licensee's duties and responsibilities specified in section 76-2419. The requirements of this subsection are met as to a seller or landlord if the written agreement entered into with the seller or landlord complies with this subsection. The requirements of this subsection are met as to a buyer or tenant if a consent or buyer's or tenant's agency agreement is signed by a potential buyer or tenant which complies with this subsection. The consent of the buyer or tenant does not need to refer to a specific property and may refer generally to all properties for which the buyer's or tenant's agent may also be acting as a seller's or landlord's agent and would be a dual agent. If a licensee is acting as a dual agent with regard to a specific property, the seller and buyer or landlord and tenant shall confirm in writing the dual-agency status and the party or parties responsible for paying any compensation prior to or at the time a contract to purchase a property or a lease or letter of intent to lease is entered into for the specific property, by failing to have the seller sign the Consent To Dual Agency Agreement in Transaction #3 until February 3, 2006, which was the day following acceptance of the Offer by the seller; and Neb. Rev. Stat. §81-885.24 (29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson. Dunne failed to present an Offer to the seller in a timely manner; Dunne inaccurately disclosed to a buyer that he was acting as a limited Buyer's Agent when he was actually acting as a limited Seller's Agent; and Dunne failed to have the seller sign the Consent To Dual Agency Agreement until February 3, 2006, which was the day following acceptance of the Offer.</p>	2006-030 - Commission vs. Daniel Jay Dunne		(3) hours in the area of agency, all to be completed by September 12, 2006.

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<p><u>Maloney</u>: Section 81-885.24 (29) demonstrating negligence to act as a broker. Maloney prepared advertising and disseminated the advertising to the public, i.e., a flyer and a Multiple Listing Service Detail Report, that incorrectly identified the number of acres. <u>Curtis</u>: Section 76-2419 (2) A dual agent shall be a limited agent for both the seller and buyer or the landlord and tenant and shall have the duties and obligations required by sections 76-2417 and 76-2418 unless otherwise provided for in this section; Neb. Rev. Stat. § 76-2418 (1) A licensee representing a buyer or tenant as a buyer' or tenant's agent shall be a limited agent with the following duties and obligations: (b) To exercise reasonable skill and care for the client and (c) To promote the interests of the client with the utmost good faith, loyalty, and fidelity, and Neb. Rev. Stat. § 81-885.24 (29) demonstrating negligence to act as a salesperson. Curtis failed to exercise reasonable skill and care for the buyer and failed to promote the interests of the buyer with the utmost good faith, loyalty, and fidelity by failing to write the buyer's Offer to include two (2) tractors and the required implements needed to mow the lawn, and by signing transaction documents "Margaret T. Maloney by Tracy Curtis", instead of signing the transaction documents as Tracy Curtis.</p>	<p>2006-050 Emilio Zuniga vs. Margaret Theresa Maloney and Tracy Gayle Curtis</p>	<p>May 24, 2007</p>	<p>Stipulation and Consent Order. <u>Maloney</u>: License censured; plus three (3) hour of additional continuing education in the area of license law to be completed by November 20, 2007. <u>Curtis</u>: License censured; plus six (6) hours of additional continuing education with three (3) hours in the area of agency and three (3) hours in the area of contracts to be completed by November 20, 2007.</p>
<p>Section 76-2418 (1) A licensee representing a buyer or tenant as a buyer's or tenant's agent shall be a limited agent with the following duties and obligations: (d) To account in a timely manner for all money and property received. Buenrostro failed to account for the \$500.00 earnest money deposit; Neb. Rev. Stat. § 81-885.24 (3) Failing to account for and remit any money coming into his or her possession belonging to others. Buenrostro failed to account for and remit the earnest money deposit of \$500.00; and Neb. Rev. Stat. § 81-885.24 (29) Demonstrating negligence, incompetency, or unworthiness to act as a broker. Buenrostro allowed Respondent Loza to participate in the real estate transaction knowing that he was a licensed salesperson employed by another designated broker.</p>	<p>2006-068 Raymond M. Zendejas vs. Angel Ramon Loza and Gustavo A. Buenrostro</p>	<p>August 23, 2007</p>	<p><u>Loza</u>: Continued until further notice. <u>Buenrostro</u>: Stipulation and Consent Order. License suspended for one hundred twenty (120) days, followed by one hundred eighty (180) days of probation, to commence immediately upon completion of the suspension period given the Respondent Buenrostro under Complaint 2006-064; plus six (6) hours of additional continuing education with three (3) hours in the area of trust accounts and three (3) hours in the area of license law.</p>

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Section 76-2418 (1) A licensee representing a buyer or tenant as a buyer's or tenant's agent shall be a limited agent with the following duties and obligations: (b) To exercise reasonable skill and care for the client and (c) To promote the interests of the client with the utmost good faith, loyalty, and fidelity and Neb. Rev. Stat. § 81-885.24 (29) demonstrating negligence to act as a broker, associate broker, or salesperson. Muller failed to advise the client to have a whole-house inspection.	2007-036 David L. and Shelley M. Pokorny vs. James Wilbur Muller	April 4, 2008	Stipulation and Consent Order. License Censured; plus an additional six (6) hours of continuing education with three (3) hours in the area of agency and three (3) hours in the area of license law to be completed by October 1, 2008.
Section 76-2418 (1) A licensee representing a buyer or tenant shall be a limited agent with the following duties and obligations: (b) To exercise reasonable skill and care for the client and (c) To promote the interests of the client with the utmost good faith, loyalty, and fidelity, by failing to disclose to the Complainant that Respondent Nieman and his spouse also had an interest in purchasing the subject property.	2008-013 Commission vs. Roger A. Nieman	May 5, 2008	Stipulation and Consent Order. License suspended for a period of thirty (30) days, with the entire suspension period stayed and served on probation, will commence on a mutually acceptable date within 30 days from the date of receipt of the Order; plus an additional three (3) hours of continuing education in the area of ethics to be completed by November 5, 2008.
Section 81-885.24 (18) Providing any form of compensation or consideration to any person for performing the services of a broker, associate broker, or salesperson who has not first secured his or her license under the Nebraska Real Estate License Act unless such person is (a) a nonresident who is licensed in his or her resident regulatory jurisdiction or (b) a citizen and resident of a foreign country which does not license persons conducting the activities of a broker and such person provides reasonable written evidence to the Nebraska broker that he or she is a resident citizen of that foreign country, is not a resident of this country, and conducts the activities of a broker in that foreign country; 81-885.24 (22) Making any substantial misrepresentations; 81-885.24 (16) Violating any provision of sections 76-2401 to 76-2430; 76-2418 (3) (a) A licensee acting as a buyer's or tenant's agent owes no duty or obligation to a seller, a landlord, or a prospective seller or landlord, except that the licensee shall disclose in writing to any seller, landlord, or prospective seller or landlord all adverse material facts actually known by the licensee. The adverse material facts may include, but are not limited to, adverse material facts concerning the client's financial ability to perform the terms of the transaction. (b) A	2007-064 Commission vs. John Steven Headlee	December 4, 2008	Stipulation and Consent Order. License suspended for a period of thirty (30) days immediately followed by eleven (11) months probation. Suspension period commenced on December 5, 2008, and continued through January 4, 2009. The probationary period commenced on January 5, 2009, and continues through November 5, 2009; plus an additional nine (9) hours of continuing education with three (3) hours in the area of disclosures, three (3) hours in the area of license law and three (3) hours in the area of ethics, to be completed by June 3, 2009.



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<p>buyer's or tenant's agent owes no duty to conduct an independent investigation of the client's financial condition for the benefit of the customer and owes no duty to independently verify the accuracy or completeness of statements made by the client or any independent inspector; and 81-885.24 (29) Demonstrating negligence, incompetency, or unworthiness to act as a salesperson. Headlee provided compensation for past and future referrals to a person who had not first secured his or her license under the Nebraska Real Estate License Act; Headlee made material misrepresentations to the buyer with respect to Headlee's knowledge about termites on the property; and, Headlee failed to disclose to the buyers, in writing, an adverse material facts regarding termites which fact was actually known by Headlee.</p>	<p>2007-064 Commission vs. John Steven Headlee</p>		
<p>Section 76-2418 (1) A licensee representing a buyer or tenant as a buyer's or tenant's agent shall be a limited agent with the following duties and obligations: (b) To exercise reasonable skill and care for the client; (c) To promote the interests of the client with the utmost good faith, loyalty, and fidelity. Brewster failed to prepare an Addendum in which the buyers and sellers would agree that sellers would complete the required repairs and that funds would be escrowed at closing from seller's proceeds to pay for the repairs.</p>	<p>2009-021 Commission vs. Timothy Scott Brewster</p>	<p>July 9, 2009</p>	<p>Stipulation and Consent Order. License censured; plus an additional six (6) hours of continuing education with three (3) hours in the area of agency and three (3) hours in the area of contracts, to be completed by January 5, 2010.</p>
<p>Hellman: violated Neb. Rev. Stat. § 76-2417 (1) A licensee representing a seller or landlord as a seller's agent or a landlord's agent shall be a limited agent with the following duties and obligations: (b) To exercise reasonable skill and care for the client; (c) To promote the interests of the client with the utmost good faith, loyalty, and fidelity. Hellman failed to reduce the terms of the proposed settlement between developer and purchaser to writing for signature by the parties. Violated 81-885.24 (19) Failing to include a fixed date of expiration in any written listing agreement and failing to leave a copy of the agreement with the principal. Hellman failed to include a fixed date of expiration in the listing agreement. And violated 81-885.24 (29) Demonstrating negligence, incompetency, or unworthiness to act as a salesperson. Hellman failed to reduce the terms</p>	<p>2009-026 Commission vs. Jennifer Lynn Hellman and Brady Kieth Bock</p>	<p>July 9, 2009</p>	<p>Stipulation and Consent Order. Both licenses censured and each shall complete an additional six (6) hours of continuing education with three (3) hours in the area of agency and three (3) hours in the area of contracts, to be completed by January 5, 2010.</p>

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<p>of the proposed settlement between developer and purchaser to writing for signature by the parties, and, failed to include a fixed date of expiration in the listing agreement.</p> <p><u>Bock</u>: violated Neb. Rev. Stat. § 76-2418 (1) A licensee representing a buyer or tenant as a buyer's or tenant's agent shall be a limited agent with the following duties and obligations: (b) To exercise reasonable skill and care for the client; (c) To promote the interests of the client with the utmost good faith, loyalty, and fidelity; and 81-885.24 (29) Demonstrating negligence, incompetency, or unworthiness to act as a salesperson. Bock failed to reduce the terms of the proposed settlement between developer and purchaser to writing for signature by the parties.</p>	<p>2009-026 Commission vs. Jennifer Lynn Hellman and Brady Kieth Bock</p>		
<p>Violated Neb. Rev. Stat. § 76-2418(1)(b) and (c) licensee representing a buyer, as a buyer's agent, agent shall be a limited agent with the following duties and obligations, (b) to exercise reasonable skill and care for the client; (c) to promote the interests of the client with the utmost good faith, loyalty, and fidelity, including (ii) presenting all written offers to and from the client in a timely manner, in that she failed to exercise reasonable skill and care for the Warneke buyers with regard to the transaction in question and failed to promote the interests of the Warneke buyers, by failing to present the Warnkes' \$33,500.00 offer of December 10, 2008 to the Listing Agent for the Seller; 76-2421(1) At the earliest practicable opportunity during or following the first substantial contact with a buyer, who has not entered into a written agreement for brokerage services with a designated broker, the licensee who is offering brokerage services to that person shall (a) provide that person with a written copy of the current brokerage disclosure pamphlet which has been prepared and approved by the commission; and (b) disclose in writing to that person the types of brokerage relationships the designated broker and affiliated licensees are offering to that person or disclose in writing to that person which party the licensee is representing, in that she offered brokerage services, as an affiliated licensee, to the Warneke buyers and failed, at the earliest practicable opportunity following the first substantial contact with the Warneke buyers, to provide them</p>	<p>2009-056 Commission vs. Brenda L. Whalen</p>	<p>February 17, 2011</p>	<p>Stipulation and Consent Order. License suspended for one (1) year, with the first sixty (60) days served on suspension and the ten (10) month remainder stayed and served on probation; plus an additional nine (9) hours of continuing education in the areas of agency law, ethics and contracts to be completed by June 17, 2011. Whalen shall pay a civil fine in the amount of \$1,000.00 on or before March 18, 2011.</p>

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<p>with a written copy of the current brokerage disclosure pamphlet approved by the Commission and failed to disclose in writing to the Warneke buyers the type of brokerage relationship Whalen was offering to the Warneke buyers; 81-885.24(16) Unfair trade practice for real estate licensee to "violate any provision of sections 76-2401 to 76-2430"; 81-885.24(26) Unfair trade practice for a licensee to violate any rule or regulation adopted and promulgated by the commission in the interest of the public and consistent with the Nebraska's Real Estate License Act; 81-885.24(29) Failure to reduce an offer to writing where a prospective purchaser requests such offer to be submitted when the licensee is the prospective purchaser's limited buyer's agent, in that she failed to reduce to writing the various offers, alleged more particularly above, to purchase the subject property, submitted to her by the Warnkes and by Glissman in November and December of 2008; 299 NAC 5.003.18 Actions demonstrating negligence, incompetency, or unworthiness.</p>	<p>2009-056 Commission vs. Brenda L. Whalen</p>		
<p>Violated Neb. Rev. Stat. § 76-2418(1) A licensee representing a buyer as a limited Buyer's Agent shall have the following duties and obligations: (b) To exercise reasonable skill and care for the client; (c) To promote the interests of the client with the utmost good faith, loyalty, and fidelity; for failing to postpone or delay closing on the property when it was discovered that the Warranty Company would not cover the furnace, air-conditioner, and humidifier, and for omitting page three of the furnace company's inspection report to the Warranty Company; Neb. Rev. Stat. § 76-2421(1) At the earliest practicable opportunity during or following the first substantial contact with a buyer, who has not entered into a written agreement for brokerage services with a designated broker, the licensee who is offering brokerage services to that person shall (a) Provide that person with a written copy of the current brokerage disclosure pamphlet which has been prepared and approved by the commission; and (b) Disclose in writing to that person the types of brokerage relationships the designated broker and affiliated licensees are offering to that person or disclose</p>	<p>2011-008 – Commission vs. Eric Scott Lundstrom</p>	<p>March 17, 2011</p>	<p>Stipulation and Consent Order. License suspended for one (1) year, with the first thirty (30) days served on suspension and the eleven (11) month remainder stayed and served on probation; plus an additional nine (9) hours of continuing education in the area of "Agency", "Disclosures" and "Ethics" to be completed by July 15, 2011.</p>

## SECTION 76-2418 - FAILURE TO FULFILL DUTIES AND OBLIGATIONS OF BUYER'S AGENT OR TENANT'S AGENT

VIOLATION	COMPLAINT	DATE OF ORDER	PENALTY
<p>in writing to that person which party the licensee is representing; for failing to provide an agency disclosure to the buyers at the earliest practicable opportunity during or following the first substantial contact; Neb. Rev. Stat. § 81-885.24(16) Unfair trade practice for a real estate licensee to "violate any provision of sections 76-2401 to 76-2430; specifically violating Neb. Rev. Stat. § 76-2418(1)(b)(c) and 76-2421(1)(a)(b); Neb. Rev. Stat. § 81-885.24(22) Making any substantial misrepresentations; by omitting page three of the furnace company's inspection report to the Warranty Company; and Neb. Rev. Stat. § 81-885.24(29) Demonstrating negligence, incompetency, or unworthiness to act as broker, associate broker, or salesperson; for violating Neb. Rev. Stat. §§ 76-2418(1)(b)(c); 76-2421(1)(a)(b); 81-885.24(16); and 81-885.24(22).</p>	<p>2011-008 – Commission vs. Eric Scott Lundstrom</p>		
<p><u>Bollwitt</u>: Violated Neb. Rev. Stat. § 76-2418(1) A licensee representing a buyer or tenant as a buyer's or tenant's agent shall be a limited agent with the following duties and obligations: (b) To exercise reasonable skill and care for the buyer/client; Bollwitt failed to check all necessary boxes on the buyer's Offer to Purchase; Neb. Rev. Stat. § 76-2421(1) At the earliest practicable opportunity during or following the first substantial contact with a seller, landlord, buyer, or tenant who has not entered into a written agreement for brokerage services with a designated broker, the licensee who is offering brokerage services to that person or who is providing brokerage services for that property shall: (a) Provide that person with a written copy of the current brokerage disclosure pamphlet which has been prepared and approved by the commission; and (b) Disclose in writing to that person the types of brokerage relationships the designated broker and affiliated licensees are offering to that person or disclose in writing to that person which party the licensee is representing; Bollwitt failed at the earliest practicable opportunity during or following first substantial contact with the Buyers, to complete an Agency Disclosure which disclosed, in writing, to the Buyers that Bollwitt was acting as a limited Buyer's Agent; and by failing at the earliest practicable opportunity during or following first</p>	<p>2009-028 – Beth and John Wiersma vs. Betty Jane Warren and Jamie Paul Bollwitt</p>	<p>August 19, 2011</p>	<p><u>Warren</u>: Dismissed due to the Commission entering a Stipulation and Consent Order on Case No. 2010-021. <u>Bollwitt</u> : Stipulation and Consent Order. License censured; plus complete an additional nine (9) hours of continuing education by September 23, 2011, with three (3) hours each in the area of Agency, Contracts and License Law and submit documentary proof to the Commission that said courses have been satisfactorily completed; plus pay a civil fine of \$1,500.00 by September 23, 2011.</p>

## SECTION 76-2418 - FAILURE TO FULFILL DUTIES AND OBLIGATIONS OF BUYER'S AGENT OR TENANT'S AGENT

VIOLATION	COMPLAINT	DATE OF ORDER	PENALTY
substantial contact with the Sellers, to complete and Agency Disclosure which disclosed in writing to the Sellers that he was acting as a limited Buyer's Agent; Bollwitt violated Neb. Rev. Stat. § 81-885.24(16) by violating Neb. Rev. Stat. § 76-2418(1) and Neb. Rev. Stat. § 76-2421(1) of the agency statutes; Bollwitt violated Neb. Rev. Stat. § 81-885.24(29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson; by violating Neb. Rev. Stat. §§ 76-2418(1), 76-2421(1), and 81-885.24.	2009-028 – Beth and John Wiersma vs. Betty Jane Warren and Jamie Paul Bollwitt		
Violated Neb. Rev. Stat. § 81-885.24 (16) for violating an agency statute, specifically, 76-2418 (1), 76-2421 (1), 76-2422 (4), and 76-2425; Violated Neb. Rev. Stat. § 81-885.24 (26) for violating a rule or regulation of the Commission, specifically, Title 299 Chapter 5 Section 003.25; Violated Neb. Rev. Stat. § 76-2425 for violating any provision of sections 76-2401 to 76-2430; Violated Neb. Rev. Stat. § 76-2418 (1) (b) (c) (e) A licensee representing a buyer as a buyer's agent shall be a limited agent with the following duties and obligations: (b) To exercise reasonable skill and care for the client; (c) To promote the interests of the client with the utmost good faith, loyalty, and fidelity, and (e) To comply with all requirements of sections 76-2401 to 76-2430; Hupp failed to get a pre-occupancy agreement in place during the time period when buyer occupied the property prior to closing from August 2009, to October 9, 2009; Violated Neb. Rev. Stat. § 76-2421 (1) for failing to provide an Agency Disclosure to buyer at the earliest practicable opportunity during or following the first substantial contact with buyer; Violated Neb. Rev. Stat. § 76-2422 (4) for failing to obtain written confirmation of his "dual agency status" from the Seller or POAs prior to or at the time a contract to purchase the property was entered into on August 6, 2009; Violated Title 299 Chapter 5-003.25 for providing buyer with a Seller Property Condition Disclosure Statement which contained omissions in which seller's POAs failed to provide a response. Hupp was aware of these omissions and failed to attach a written disclosure of the omissions to the Seller Property Condition Disclosure Statement disclosing the	2012-002 – Commission vs. Robert L. Hupp	March 15, 2012	Stipulation and Consent Order. License suspended for six (6) months with the first thirty (30) days served on suspension and the remainder five (5) months stayed and served on probation. The suspension period commenced on March 19, 2012, and continued through April 18, 2012. The probation period will commence on April 19, 2012 and will continue through September 19, 2012; Plus complete nine (9) hours of additional continuing education with three (3) hours each in the areas of "Agency", "Contracts" and "Disclosures", to be completed by July 13, 2012.

## SECTION 76-2418 - FAILURE TO FULFILL DUTIES AND OBLIGATIONS OF BUYER'S AGENT OR TENANT'S AGENT

VIOLATION	COMPLAINT	DATE OF ORDER	PENALTY
omissions to the potential buyer and the seller; Violated Neb. Rev. Stat. § 81-885.24 (29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson; for violating Neb. Rev. Stat. §§ 76-2418 (1) (b) (c) and (e); 76-2421 (1) (a) and (b); 76-2422 (4); 76-2425; 81-885.24 (16) and (26); and Title 299 Chapter 5 Section 003.25.	2012-002 – Commission vs. Robert L. Hupp		
Violated Neb. Rev. Stat. § 76-2418(1) A licensee representing a buyer or tenant as a buyer's or tenant's agent shall be a limited agent with the following duties and obligations: (b) To exercise reasonable skill and care for the client; (c) To promote the interests of the client with the utmost good faith, loyalty, and fidelity; for failing to notify the home warranty company that a new furnace had been installed in the subject home prior to closing; Violated Neb. Rev. Stat. § 81-885.24(29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson, by violating Neb. Rev. Stat. § 76-2418(1) (b) and (c).	2011-015 – Patricia Sindelar vs. Terry Lee Forman	April 19, 2012	Stipulation and Consent Order. License censured; Plus a civil fine of \$250.00 to be paid by May 19, 2012; plus three (3) hours of additional continuing education in the area of "Agency", to be completed by August 17, 2012.